

**From:** Howard Owen  
**To:** Microsoft ATR  
**Date:** 12/9/01 7:08pm  
**Subject:** Microsoft Settlement

I am a Computer Systems Administrator with 16 years professional experience. I write with concern over the revised proposed Final Judgment of United States v. Microsoft. In particular, I am concerned with the language of section III(J)(2) of the revised proposed final Judgment which reads:

"(No provision of this Final Judgment shall:...) 1. Prevent Microsoft from conditioning any license of any API, Documentation or Communications Protocol related to anti-piracy systems, anti-virus technologies, license enforcement mechanisms, authentication/authorization security, or third party intellectual property protection mechanisms of any Microsoft product to any person or entity on the requirement that the licensee: (a) has no history of software counterfeiting or piracy or willful violation of intellectual property rights, (b) has a reasonable business need for the API, Documentation or Communications Protocol for a planned or shipping product, (c) meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, (d) agrees to submit, at its own expense, any computer program using such APIs, Documentation or Communication Protocols to third-party verification, approved by Microsoft, to test for and ensure verification and compliance with Microsoft specifications for use of the API or interface, which specifications shall be related to proper operation and integrity of the systems and mechanisms identified in this paragraph."

Some background regarding my experience with Microsoft software will help to clarify my concerns with this language.

For the first five years of my career, I used first the VMS, then the Unix operating systems exclusively. Microsoft's DOS and Windows operating systems were not considered by most of my customers (Scientists and graduate students at the Physics Department of UCSB) to be suitable for their purposes. In 1991, I got a new job at a commercial company, Octel Communications in Milpitas California, supporting their engineers. At Octel, Microsoft's dominance of the market for PC operating systems was well under way. The engineers mostly used Unix (Sun's version) but the rest of the company used DOS and Windows 3.11. For me, as a Unix Systems Administrator, this posed an immediate problem. The Windows systems were networked together using a Microsoft protocol called SMB. The details of this protocol were partly available, and partly kept secret (or at least not published) by Microsoft. This meant that resources on the Windows network, such as disks and printers, were unavailable to users on the

Unix network, and vice-versa. This was sub-optimal in a number of ways. It led to situations in which workgroups would have two printers, one for Windows and Unix. Files would be shared using floppy disks. Searching for a solution, I found a wonderful software package on the Internet called Samba. This software, written by clever programmer in Australia, named Andrew Tridgell, implemented communications between the incompatible Unix and Windows worlds. Using Samba, I could make my Unix computers and disks available to Windows users. I could also make Windows printers available to Unix users. Getting at Windows files from Unix was less well supported, but it was possible. This was OK because at that time the Windows boxes tended to be desktop machines, whereas the Unix computers were generally larger server boxes. This meant most of the disk space we wanted to share was on Unix, and Samba let us do that very well.

Two points about Samba are relevant in my concern over the language cited in my first paragraph. First, since the SMB protocol in use on Windows 3.11 differed in important details from the various published specifications, Andrew Tridgell had to "reverse engineer" the protocol. (When he started he didn't even know there were any published specs. By the time he got his hands on them, he had implemented enough on his own to know that certain details were wrong or missing.) This may have been due to a desire by Microsoft to keep the details of their implementation secret or commercial advantage. Most Finance departments in industry look askance at duplicating resources like printers across an entire organization. At Octel, there was pressure from Finance to consolidate the computing platforms in use due to the added expense. Since Finance used Windows, that was the platform they wanted to standardize on. The second point about Samba is it was developed by volunteers, and given away for free on the Internet. This model of software distribution is now more familiar, (It goes by various labels, depending on who is describing it and on what software license is in use. "Free Software" and "Open Source Software" are two popular labels. Based on its license, the former is the proper label for Samba.) but it was novel in the commercial world in 1991.

Which brings me finally back to the language of Section III(J)(2) of the revised proposed final Judgment reproduced above. One of the several criteria for which "No provision of this Final judgment shall ... Prevent Microsoft from conditioning any license ..." for its security related APIs to a "person or entity" is that the entity "meets reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business..." (d). The problem with this clause as it relates to the current discussion is that Samba, as related above, does not have a "viable business." Samba is given away for free by volunteers. It is nonetheless a critical piece of software in ensuring that computers running Microsoft's OS "play nice" with rival Operating Systems. If Microsoft is allowed, at its sole discretion,

to withhold APIs from entities it deems to not have a "viable business," there is a real danger Microsoft will do so for projects, like Samba, that tend to soften the power of Microsoft's monopoly in the market for PC operating systems. The quoted section limits this clause to APIs "... related to anti-piracy systems, anti-virus technologies, license enforcement mechanisms, authentication/authorization security, or third party intellectual property protection mechanisms." However this limitation doesn't rescue Samba, which must use "authentication/authorization security" mechanisms to access resources on networks running Microsoft's software.

Based on this concern, I strongly urge you to amend the language in the Final Judgment to place the decision in the hands of the Technical Committee set up under section IV (B) of the Final Judgment, rather than Microsoft's

Thank you for your attention,

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Howard Owen                      "Even if you are on the right  
EGBOK Consultants              track, you'll get run over if you  
hbo@egbok.com    +1-650-339-5733    just sit there." - Will Rogers